

COMMISSION MEETING MINUTES
February 28, 2006

The Board of Davis County Commissioners met in the Commission Chambers of the Davis County Courthouse, Farmington, Utah on February 28, 2006. Members present were Chairman Carol R. Page, Commissioner Dannie R. McConkie, Clerk/Auditor Steve S. Rawlings, Chief Deputy Civil County Attorney Gerald E. Hess, and Commission Office Manager Linda May. Commissioner Alan Hansen was excused due to illness.

Grant
Application
#2006-040
Bureau of
Justice
Assistance for
Funds for
Bulletproof
Vest Program

Dave Boucher, Davis County Sheriff’s Office, presented grant application #2006-040 with the Bureau of Justice Assistance – Office of Justice Programs. The grant application for the yearly submission to the Office of Justice Program’s Bullet proof Vest Program requires a 50% match on funds allocated under the grant. Matching funds are somewhat transparent as the grant reimburses approximately 95% of the discounted vest price. The announcement of allocations will come in April or May. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Agreement
#2006-041 Van
Boerum &
Frank
Associates for
Sensors,
Cooling, Heat
and Lighting
for Jail
Expansion

Kevin McLeod, Chief Deputy Davis County Sheriff’s Office, presented agreement #2006-041 with Van Boerum and Frank Associates, Inc. The company will provide installation verification and functional performance testing of 96 occupancy sensors, 6 multi-zone AHU’s with evaporation cooling and heat recovery, and premium T8 lighting for the Davis County jail expansion. It is a payable in the amount of \$8,779.00. The company is accredited as a commissioning agent for verification of criteria that must be met for the energy efficiency program agreement between Utah Power and Davis County for the jail expansion. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Agreement
#2006-042
Robinson
Waste Services,
Inc for Garbage
Pick-up at
Centerville
Branch Library

Agreement #2006-042 with Robinson Waste Services, Inc. and the Davis County Library was presented. The company will provide garbage bin rental and pick-up for the Centerville Branch Library. The cost is \$55.00 per month from March 1, 2006 through March 1, 2007. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Board of
Health
Appointment
for
Commissioner
Carol Page

The Board of Health is composed of nine members (including a Davis County Commissioner). In light of the recently enacted ordinance to put Aging Services under the Health Department the commissioners have made portfolio changes. Commissioner Page now has the Health and Aging Services Department in her portfolio. Commissioner Page made a motion for appointment to the Board of Health. Commissioner McConkie seconded the motion. All voted aye. Commissioner McConkie stated that he had given Lewis Garrett, Davis County Health and Aging Services Director, his resignation from the Board. Commissioner McConkie stated that he strongly supports this change and knows Commissioner Page has an abundance of knowledge and experience with Health and Aging Services issues and will provide a valuable perspective for the Board.

Agreement
#2006-043
America West
4-D for Rental
of Legacy
Center

Curtis Koch, Davis County Fair Park Director, presented an agreement #2006-043 with America West 4-D. This will be the third year that Davis County will host the AW4D Utah Regional. It is a receivable in the amount of \$1,580.00 for rental of the Legacy Center. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Curtis Koch presented the following agreements for sponsorships for the 2006 Davis County Fair:

- (1.) Agreement #2006-044 with Layton Hills Dodge in the amount of \$5,000.00 for the PRCA rodeo and fair.
- (2.) Agreement #2006-045 with Mountain America Credit Union in the amount of \$2,000.00 the free pony rides.
- (3.) Agreement #2006-046 with Lakeview Hospital in the amount of \$1,250.00 for the Free Concert Stage and a fair book advertisement.

Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The documents are on file in the office of the Davis County Clerk/Auditor.

Curtis Koch presented agreement #2006-047 with Fireworks West International. The company will do a firework production on Thursday night (8/17) of the 2006 fair. It is a payable in the amount of \$10,000.00. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Agreement #2006-048 with Fireside Appraisals was presented. It is for sale of tax parcel ownership plats for Davis County (\$200.00) and quarterly updates (\$25.00) per quarter. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The document is on file in the office of the Davis County Clerk/Auditor.

Commissioner McConkie presented the name of Gary Gatherum for appointment to the South Davis Recreation District Board. The opening exists as Darrel Twede requested not to be appointed for an additional term. Public notice of the opening was posted at all city offices of the district as well as published in the Davis County Clipper. Commissioner Page seconded the motion. All voted aye. The term will be until December 31, 2009.

Commissioner McConkie made a motion to approve the commission meeting minutes of February 14 and 21. Commissioner Page seconded the motion. All voted aye.

A personal property tax register as prepared by the Davis County Assessor was presented. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye.

A personnel register was presented. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye.

Check registers as prepared by the Davis County Clerk/Auditor’s Office were presented. Commissioner McConkie made a motion to approve. Commissioner Page seconded the motion. All voted aye. The documents are on file in the office of the Davis County Clerk/Auditor.

Commissioner McConkie invited everyone to the “Legacy Celebration” this afternoon. Governor Jon Huntsman will speak at 2:00 p.m. at the Davis Park Fairgrounds. At 4:00 – 8:00 p.m. an open house will be held to give information on the Legacy Highway, parkway, trails, and other aspects of the long anticipated project. With the 10th Circuit Court of Appeals giving the go-ahead for the Legacy Parkway, it’s time to celebrate!

Steve Rawlings, Davis County Clerk/Auditor, read the following letter from Kent L. Godrey, CPA Office of the State Auditor:

“We have reviewed the budget submitted by Davis County for the fiscal year ending December 31, 2006. Our review was made to verify substantial compliance with *Utah Code*, Title 17, Chapter 36, “Uniform Fiscal Procedures Act for Counties” and other applicable State fiscal Laws.

Memorandum
of Court
Decision
Regarding
Attorney Fees
in the Issue of
Fluoridation in
the County's
Drinking Water

The budget submitted is in substantial compliance with the Uniform Fiscal Procedures Act and other applicable State fiscal laws.”

Steve Rawlings thanked the budget committee and all the departments for their cooperation as the budget was being prepared.

Steve Rawlings stated that he has received the Memorandum Decision and Order for the Utahns for Better Dental Health – Davis, Inc. (Plaintiff) vs. Davis County Clerk, Steve S. Rawlings (Defendant). Issue of fluoridation in the County’s drinking water and the matter before the Court on “Plaintiff’s Motion for Award of Attorney’s Fees and Costs” filed November 7, 2002.

Conclusion: Based upon the foregoing, the Court concludes first, the Plaintiff did not present sufficient evidence that the Defendant acted in bad faith, vexatiously, wantonly, or for oppressive reasons. Second, Plaintiff presented no evidence regarding the “common fund” theory. In the alternative, Plaintiff did not present sufficient evidence that as a result of the litigation there was a conferral of a “substantial benefit” of either a pecuniary or nonpecuniary nature that would warrant an equitable award of fees. Third, this case does not involve a beneficiary who sued a trustee for violation of the trust. Finally, Plaintiff rendered insufficient evidence to support an award of attorney fees under the “private attorney general” doctrine.

The Court cannot conceive of any other approach that would allow this Court to use its equitable power to grant Plaintiff’s attorneys’ fees in this case. Accordingly, it is hereby ORDERED, ADJUDGED and DECREED that Plaintiff’s request for attorneys’ fees is denied. (Glen R. Dawson, District Court Judge)

Commissioner McConkie made a public announcement that he intends to run for Commissioner again and will be filing during the candidate filing period.

Meeting adjourned.